



April 10, 2015

ENGROSSED SENATE BILL No. 251

DIGEST OF SB 251 (Updated April 8, 2015 8:22 pm - DI 113)

Citations Affected: IC 6-1.1.

Synopsis: Controlled projects. Provides that for purposes of determining whether a capital project by a political subdivision, other than a school corporation, is a controlled project for purposes of the petition and remonstrance process or the referendum process, the cost of the project does not include any expenditures that will be paid from money that is accumulated or saved by the political subdivision, if before the preliminary determination is made for the capital project the political subdivision segregates the money for use in the project as provided in a capital improvement plan, a capital development plan, or a similar plan adopted by the political subdivision. (Current law also excludes any expenditures that will be paid from donations or other gifts.) Provides that a person that owns property within a political subdivision or a person that is a registered voter residing within a political subdivision may file a petition with the department of local government finance (DLGF) objecting that the political subdivision has artificially divided a capital project into multiple capital projects in order to avoid the petition and remonstrance requirements or the referendum requirements. (Current law prohibits the artificial division of capital projects for such a purpose.) Requires the DLGF to make a final determination not later than 30 days after receiving the petition.

Effective: July 1, 2015.

Kenley, Buck, Broden

(HOUSE SPONSORS — TORR, COOK, GOODIN, SCHAIBLEY)

January 7, 2015, read first time and referred to Committee on Tax & Fiscal Policy.
January 27, 2015, amended, reported favorably — Do Pass.
January 29, 2015, read second time, ordered engrossed. Engrossed.
February 2, 2015, read third time, passed. Yeas 44, nays 0.

HOUSE ACTION

March 2, 2015, read first time and referred to Committee on Ways and Means.
April 9, 2015, amended, reported — Do Pass.

ES 251—LS 6822/DI 73



April 10, 2015

First Regular Session 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

ENGROSSED SENATE BILL No. 251

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-1.1-20-0.7 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2015]: **Sec. 0.7. (a) This section applies only**
4 **to a preliminary determination made after June 30, 2015, by a**
5 **political subdivision, other than a school corporation, to issue**
6 **bonds or enter into a lease.**
7 **(b) In determining whether a project is a controlled project for**
8 **purposes of this chapter and whether the petition and**
9 **remonstrance process under sections 3.1 and 3.2 of this chapter or**
10 **the referendum process under sections 3.5 and 3.6 of this chapter**
11 **apply to the project, the cost of the project for purposes of this**
12 **chapter does not include the following:**
13 **(1) Any expenditures excluded under section 0.5 of this**
14 **chapter (expenditures for the project that will be paid from**
15 **donations or other gifts).**
16 **(2) Any expenditures that will be paid from money that is**

ES 251—LS 6822/DI 73



1 accumulated or saved by the political subdivision in any fund
 2 of the political subdivision, if before the preliminary
 3 determination is made the political subdivision segregates the
 4 money for use in the project as provided in a capital
 5 improvement plan, a capital development plan, or a similar
 6 plan adopted by the political subdivision.

7 (c) The proper officers of a political subdivision, other than a
 8 school corporation, must include in the resolution or ordinance
 9 making a preliminary determination to issue bonds or enter into a
 10 lease a determination of that part of the total project cost that will
 11 be paid from sources described in subsection (b)(1) or (b)(2). The
 12 proper officers of the political subdivision must make the
 13 determination concerning the part of the total project cost that will
 14 be financed by the bonds or lease at a public hearing after proper
 15 notice under IC 5-3-1.

16 SECTION 2. IC 6-1.1-20-3.1, AS AMENDED BY P.L.218-2013,
 17 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2015]: Sec. 3.1. (a) This section applies only to the following:

19 (1) A controlled project (as defined in section 1.1 of this chapter
 20 as in effect June 30, 2008) for which the proper officers of a
 21 political subdivision make a preliminary determination in the
 22 manner described in subsection (b) before July 1, 2008.

23 (2) An elementary school building, middle school building, high
 24 school building, or other school building for academic instruction
 25 that:

26 (A) is a controlled project;

27 (B) will be used for any combination of kindergarten through
 28 grade 12; and

29 (C) will not cost more than ten million dollars (\$10,000,000).

30 (3) Any other controlled project that:

31 (A) is not a controlled project described in subdivision (1) or
 32 (2); and

33 (B) will not cost the political subdivision more than the lesser
 34 of the following:

35 (i) Twelve million dollars (\$12,000,000).

36 (ii) An amount equal to one percent (1%) of the total gross
 37 assessed value of property within the political subdivision
 38 on the last assessment date, if that amount is at least one
 39 million dollars (\$1,000,000).

40 (b) A political subdivision may not impose property taxes to pay
 41 debt service on bonds or lease rentals on a lease for a controlled project
 42 without completing the following procedures:



- (1) The proper officers of a political subdivision shall:
 - (A) publish notice in accordance with IC 5-3-1; and
 - (B) send notice by first class mail to the circuit court clerk and to any organization that delivers to the officers, before January 1 of that year, an annual written request for such notices; of any meeting to consider adoption of a resolution or an ordinance making a preliminary determination to issue bonds or enter into a lease and shall conduct a public hearing on a preliminary determination before adoption of the resolution or ordinance.
- (2) When the proper officers of a political subdivision make a preliminary determination to issue bonds or enter into a lease for a controlled project, the officers shall give notice of the preliminary determination by:
 - (A) publication in accordance with IC 5-3-1; and
 - (B) first class mail to the circuit court clerk and to the organizations described in subdivision (1)(B).
- (3) A notice under subdivision (2) of the preliminary determination of the political subdivision to issue bonds or enter into a lease for a controlled project must include the following information:
 - (A) The maximum term of the bonds or lease.
 - (B) The maximum principal amount of the bonds or the maximum lease rental for the lease.
 - (C) The estimated interest rates that will be paid and the total interest costs associated with the bonds or lease.
 - (D) The purpose of the bonds or lease.
 - (E) A statement that any owners of property within the political subdivision or registered voters residing within the political subdivision who want to initiate a petition and remonstrance process against the proposed debt service or lease payments must file a petition that complies with subdivisions (4) and (5) not later than thirty (30) days after publication in accordance with IC 5-3-1.
 - (F) With respect to bonds issued or a lease entered into to open:
 - (i) a new school facility; or
 - (ii) an existing facility that has not been used for at least three (3) years and that is being reopened to provide additional classroom space;
 the estimated costs the school corporation expects to incur annually to operate the facility.



- 1 (G) A statement of whether the school corporation expects to
 2 appeal for a new facility adjustment (as defined in
 3 IC 20-45-1-16 (repealed) before January 1, 2009) for an
 4 increased maximum permissible tuition support levy to pay the
 5 estimated costs described in clause (F).
 6 (H) The political subdivision's current debt service levy and
 7 rate and the estimated increase to the political subdivision's
 8 debt service levy and rate that will result if the political
 9 subdivision issues the bonds or enters into the lease.
- 10 (4) After notice is given, a petition requesting the application of
 11 a petition and remonstrance process may be filed by the lesser of:
 12 (A) one hundred (100) persons who are either owners of
 13 property within the political subdivision or registered voters
 14 residing within the political subdivision; or
 15 (B) five percent (5%) of the registered voters residing within
 16 the political subdivision.
- 17 (5) The state board of accounts shall design and, upon request by
 18 the county voter registration office, deliver to the county voter
 19 registration office or the county voter registration office's
 20 designated printer the petition forms to be used solely in the
 21 petition process described in this section. The county voter
 22 registration office shall issue to an owner or owners of property
 23 within the political subdivision or a registered voter residing
 24 within the political subdivision the number of petition forms
 25 requested by the owner or owners or the registered voter. Each
 26 form must be accompanied by instructions detailing the
 27 requirements that:
 28 (A) the carrier and signers must be owners of property or
 29 registered voters;
 30 (B) the carrier must be a signatory on at least one (1) petition;
 31 (C) after the signatures have been collected, the carrier must
 32 swear or affirm before a notary public that the carrier
 33 witnessed each signature; and
 34 (D) govern the closing date for the petition period.
- 35 Persons requesting forms may be required to identify themselves
 36 as owners of property or registered voters and may be allowed to
 37 pick up additional copies to distribute to other owners of property
 38 or registered voters. Each person signing a petition must indicate
 39 whether the person is signing the petition as a registered voter
 40 within the political subdivision or is signing the petition as the
 41 owner of property within the political subdivision. A person who
 42 signs a petition as a registered voter must indicate the address at



1 which the person is registered to vote. A person who signs a
2 petition as an owner of property must indicate the address of the
3 property owned by the person in the political subdivision.

4 (6) Each petition must be verified under oath by at least one (1)
5 qualified petitioner in a manner prescribed by the state board of
6 accounts before the petition is filed with the county voter
7 registration office under subdivision (7).

8 (7) Each petition must be filed with the county voter registration
9 office not more than thirty (30) days after publication under
10 subdivision (2) of the notice of the preliminary determination.

11 (8) The county voter registration office shall determine whether
12 each person who signed the petition is a registered voter. The
13 county voter registration office shall, not more than fifteen (15)
14 business days after receiving a petition, forward a copy of the
15 petition to the county auditor. Not more than ten (10) business
16 days after receiving the copy of the petition, the county auditor
17 shall provide to the county voter registration office a statement
18 verifying:

19 (A) whether a person who signed the petition as a registered
20 voter but is not a registered voter, as determined by the county
21 voter registration office, is the owner of property in the
22 political subdivision; and

23 (B) whether a person who signed the petition as an owner of
24 property within the political subdivision does in fact own
25 property within the political subdivision.

26 (9) The county voter registration office shall, not more than ten
27 (10) business days after receiving the statement from the county
28 auditor under subdivision (8), make the final determination of the
29 number of petitioners that are registered voters in the political
30 subdivision and, based on the statement provided by the county
31 auditor, the number of petitioners that own property within the
32 political subdivision. Whenever the name of an individual who
33 signs a petition form as a registered voter contains a minor
34 variation from the name of the registered voter as set forth in the
35 records of the county voter registration office, the signature is
36 presumed to be valid, and there is a presumption that the
37 individual is entitled to sign the petition under this section. Except
38 as otherwise provided in this chapter, in determining whether an
39 individual is a registered voter, the county voter registration office
40 shall apply the requirements and procedures used under IC 3 to
41 determine whether a person is a registered voter for purposes of
42 voting in an election governed by IC 3. However, an individual is



not required to comply with the provisions concerning providing proof of identification to be considered a registered voter for purposes of this chapter. A person is entitled to sign a petition only one (1) time in a particular petition and remonstrance process under this chapter, regardless of whether the person owns more than one (1) parcel of real property, mobile home assessed as personal property, or manufactured home assessed as personal property, or a combination of those types of property within the subdivision and regardless of whether the person is both a registered voter in the political subdivision and the owner of property within the political subdivision. Notwithstanding any other provision of this section, if a petition is presented to the county voter registration office within forty-five (45) days before an election, the county voter registration office may defer acting on the petition, and the time requirements under this section for action by the county voter registration office do not begin to run until five (5) days after the date of the election.

(10) The county voter registration office must file a certificate and each petition with:

(A) the township trustee, if the political subdivision is a township, who shall present the petition or petitions to the township board; or

(B) the body that has the authority to authorize the issuance of the bonds or the execution of a lease, if the political subdivision is not a township;

within thirty-five (35) business days of the filing of the petition requesting a petition and remonstrance process. The certificate must state the number of petitioners that are owners of property within the political subdivision and the number of petitioners who are registered voters residing within the political subdivision.

If a sufficient petition requesting a petition and remonstrance process is not filed by owners of property or registered voters as set forth in this section, the political subdivision may issue bonds or enter into a lease by following the provisions of law relating to the bonds to be issued or lease to be entered into.

(c) This subsection applies only to a political subdivision that, after April 30, 2011, adopts an ordinance or a resolution making a preliminary determination to issue bonds or enter into a lease subject to this section and section 3.2 of this chapter. A political subdivision may not artificially divide a capital project into multiple capital projects in order to avoid the requirements of this section and section 3.2 of this chapter. **A person that owns property within a political**



subdivision or a person that is a registered voter residing within a political subdivision may file a petition with the department of local government finance objecting that the political subdivision has artificially divided a capital project into multiple capital projects in order to avoid the requirements of this section and section 3.2 of this chapter. The petition must be filed not more than ten (10) days after the political subdivision makes the preliminary determination to issue the bonds or enter into the lease for the project. If the department of local government finance receives a petition under this subsection, the department shall not later than thirty (30) days after receiving the petition make a final determination on the issue of whether the capital projects were artificially divided.

SECTION 3. IC 6-1.1-20-3.6, AS AMENDED BY P.L.219-2013, SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3.6. (a) Except as provided in sections 3.7 and 3.8 of this chapter, this section applies only to a controlled project described in section 3.5(a) of this chapter.

(b) If a sufficient petition requesting the application of the local public question process has been filed as set forth in section 3.5 of this chapter, a political subdivision may not impose property taxes to pay debt service on bonds or lease rentals on a lease for a controlled project unless the political subdivision's proposed debt service or lease rental is approved in an election on a local public question held under this section.

(c) Except as provided in subsection (k), the following question shall be submitted to the eligible voters at the election conducted under this section:

"Shall _____ (insert the name of the political subdivision) issue bonds or enter into a lease to finance _____ (insert a brief description of the controlled project), which is estimated to cost not more than _____ (insert the total cost of the project) and is estimated to increase the property tax rate for debt service by _____ (insert increase in tax rate as determined by the department of local government finance)?"

The public question must appear on the ballot in the form approved by the county election board. If the political subdivision proposing to issue bonds or enter into a lease is located in more than one (1) county, the county election board of each county shall jointly approve the form of the public question that will appear on the ballot in each county. The form approved by the county election board may differ from the language certified to the county election board by the county auditor.



1 If the county election board approves the language of a public question
 2 under this subsection, the county election board shall submit the
 3 language to the department of local government finance for review.

4 (d) The department of local government finance shall review the
 5 language of the public question to evaluate whether the description of
 6 the controlled project is accurate and is not biased against either a vote
 7 in favor of the controlled project or a vote against the controlled
 8 project. The department of local government finance may either
 9 approve the ballot language as submitted or recommend that the ballot
 10 language be modified as necessary to ensure that the description of the
 11 controlled project is accurate and is not biased. The department of local
 12 government finance shall certify its approval or recommendations to
 13 the county auditor and the county election board not more than ten (10)
 14 days after the language of the public question is submitted to the
 15 department for review. If the department of local government finance
 16 recommends a modification to the ballot language, the county election
 17 board shall, after reviewing the recommendations of the department of
 18 local government finance, submit modified ballot language to the
 19 department for the department's approval or recommendation of any
 20 additional modifications. The public question may not be certified by
 21 the county auditor under subsection (e) unless the department of local
 22 government finance has first certified the department's final approval
 23 of the ballot language for the public question.

24 (e) The county auditor shall certify the finally approved public
 25 question under IC 3-10-9-3 to the county election board of each county
 26 in which the political subdivision is located. The certification must
 27 occur not later than noon:

28 (1) seventy-four (74) days before a primary election if the public
 29 question is to be placed on the primary or municipal primary
 30 election ballot; or

31 (2) August 1 if the public question is to be placed on the general
 32 or municipal election ballot.

33 Subject to the certification requirements and deadlines under this
 34 subsection and except as provided in subsection (k), the public
 35 question shall be placed on the ballot at the next primary election,
 36 general election, or municipal election in which all voters of the
 37 political subdivision are entitled to vote. However, if a primary
 38 election, general election, or municipal election will not be held during
 39 the first year in which the public question is eligible to be placed on the
 40 ballot under this section and if the political subdivision requests the
 41 public question to be placed on the ballot at a special election, the
 42 public question shall be placed on the ballot at a special election to be



held on the first Tuesday after the first Monday in May or November of the year. The certification must occur not later than noon seventy-four (74) days before a special election to be held in May (if the special election is to be held in May) or noon on August 1 (if the special election is to be held in November). The fiscal body of the political subdivision that requests the special election shall pay the costs of holding the special election. The county election board shall give notice under IC 5-3-1 of a special election conducted under this subsection. A special election conducted under this subsection is under the direction of the county election board. The county election board shall take all steps necessary to carry out the special election.

(f) The circuit court clerk shall certify the results of the public question to the following:

(1) The county auditor of each county in which the political subdivision is located.

(2) The department of local government finance.

(g) Subject to the requirements of IC 6-1.1-18.5-8, the political subdivision may issue the proposed bonds or enter into the proposed lease rental if a majority of the eligible voters voting on the public question vote in favor of the public question.

(h) If a majority of the eligible voters voting on the public question vote in opposition to the public question, both of the following apply:

(1) The political subdivision may not issue the proposed bonds or enter into the proposed lease rental.

(2) Another public question under this section on the same or a substantially similar project may not be submitted to the voters earlier than one (1) year after the date of the election.

(i) IC 3, to the extent not inconsistent with this section, applies to an election held under this section.

(j) A political subdivision may not artificially divide a capital project into multiple capital projects in order to avoid the requirements of this section and section 3.5 of this chapter. **A person that owns property within a political subdivision or a person that is a registered voter residing within a political subdivision may file a petition with the department of local government finance objecting that the political subdivision has artificially divided a capital project into multiple capital projects in order to avoid the requirements of this section and section 3.5 of this chapter. The petition must be filed not more than ten (10) days after the political subdivision makes the preliminary determination to issue the bonds or enter into the lease for the project. If the department of local government finance receives a petition under this subsection,**



1 **the department shall not later than thirty (30) days after receiving**
 2 **the petition make a final determination on the issue of whether the**
 3 **capital projects were artificially divided.**

4 (k) This subsection applies to a political subdivision for which a
 5 petition requesting a public question has been submitted under section
 6 3.5 of this chapter. The legislative body (as defined in IC 36-1-2-9) of
 7 the political subdivision may adopt a resolution to withdraw a
 8 controlled project from consideration in a public question. If the
 9 legislative body provides a certified copy of the resolution to the county
 10 auditor and the county election board not later than sixty-three (63)
 11 days before the election at which the public question would be on the
 12 ballot, the public question on the controlled project shall not be placed
 13 on the ballot and the public question on the controlled project shall not
 14 be held, regardless of whether the county auditor has certified the
 15 public question to the county election board. If the withdrawal of a
 16 public question under this subsection requires the county election
 17 board to reprint ballots, the political subdivision withdrawing the
 18 public question shall pay the costs of reprinting the ballots. If a political
 19 subdivision withdraws a public question under this subsection that
 20 would have been held at a special election and the county election
 21 board has printed the ballots before the legislative body of the political
 22 subdivision provides a certified copy of the withdrawal resolution to
 23 the county auditor and the county election board, the political
 24 subdivision withdrawing the public question shall pay the costs
 25 incurred by the county in printing the ballots. If a public question on a
 26 controlled project is withdrawn under this subsection, a public question
 27 under this section on the same controlled project or a substantially
 28 similar controlled project may not be submitted to the voters earlier
 29 than one (1) year after the date the resolution withdrawing the public
 30 question is adopted.

31 (l) If a public question regarding a controlled project is placed on
 32 the ballot to be voted on at a public question under this section, the
 33 political subdivision shall submit to the department of local
 34 government finance, at least thirty (30) days before the election, the
 35 following information regarding the proposed controlled project for
 36 posting on the department's Internet web site:

- 37 (1) The cost per square foot of any buildings being constructed as
- 38 part of the controlled project.
- 39 (2) The effect that approval of the controlled project would have
- 40 on the political subdivision's property tax rate.
- 41 (3) The maximum term of the bonds or lease.
- 42 (4) The maximum principal amount of the bonds or the maximum



- 1 lease rental for the lease.
- 2 (5) The estimated interest rates that will be paid and the total
- 3 interest costs associated with the bonds or lease.
- 4 (6) The purpose of the bonds or lease.
- 5 (7) In the case of a controlled project proposed by a school
- 6 corporation:
- 7 (A) the current and proposed square footage of school building
- 8 space per student;
- 9 (B) enrollment patterns within the school corporation; and
- 10 (C) the age and condition of the current school facilities.



COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 251, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 12, delete "includes only that part of the total project expenditures" and insert **"does not include the following:**

(1) Any expenditures excluded under section 0.5 of this chapter (expenditures for the project that will be paid from donations or other gifts).

(2) Any expenditures that will be paid from money that is accumulated or saved by the political subdivision in any fund of the political subdivision, if before the preliminary determination is made the political subdivision segregates the money for use in the project as provided in a capital improvement plan, a capital development plan, or a similar plan adopted by the political subdivision."

Page 1, delete line 13.

Page 2, line 2, delete "financed by the bonds or lease." and insert **"paid from sources described in subsection (b)(1) or (b)(2)."**

Page 2, after line 5, begin a new paragraph and insert:

"SECTION 2. IC 6-1.1-20-3.1, AS AMENDED BY P.L.218-2013, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3.1. (a) This section applies only to the following:

(1) A controlled project (as defined in section 1.1 of this chapter as in effect June 30, 2008) for which the proper officers of a political subdivision make a preliminary determination in the manner described in subsection (b) before July 1, 2008.

(2) An elementary school building, middle school building, high school building, or other school building for academic instruction that:

(A) is a controlled project;

(B) will be used for any combination of kindergarten through grade 12; and

(C) will not cost more than ten million dollars (\$10,000,000).

(3) Any other controlled project that:

(A) is not a controlled project described in subdivision (1) or (2); and

(B) will not cost the political subdivision more than the lesser of the following:

(i) Twelve million dollars (\$12,000,000).

(ii) An amount equal to one percent (1%) of the total gross



assessed value of property within the political subdivision on the last assessment date, if that amount is at least one million dollars (\$1,000,000).

(b) A political subdivision may not impose property taxes to pay debt service on bonds or lease rentals on a lease for a controlled project without completing the following procedures:

- (1) The proper officers of a political subdivision shall:
 - (A) publish notice in accordance with IC 5-3-1; and
 - (B) send notice by first class mail to the circuit court clerk and to any organization that delivers to the officers, before January 1 of that year, an annual written request for such notices; of any meeting to consider adoption of a resolution or an ordinance making a preliminary determination to issue bonds or enter into a lease and shall conduct a public hearing on a preliminary determination before adoption of the resolution or ordinance.
- (2) When the proper officers of a political subdivision make a preliminary determination to issue bonds or enter into a lease for a controlled project, the officers shall give notice of the preliminary determination by:
 - (A) publication in accordance with IC 5-3-1; and
 - (B) first class mail to the circuit court clerk and to the organizations described in subdivision (1)(B).
- (3) A notice under subdivision (2) of the preliminary determination of the political subdivision to issue bonds or enter into a lease for a controlled project must include the following information:
 - (A) The maximum term of the bonds or lease.
 - (B) The maximum principal amount of the bonds or the maximum lease rental for the lease.
 - (C) The estimated interest rates that will be paid and the total interest costs associated with the bonds or lease.
 - (D) The purpose of the bonds or lease.
 - (E) A statement that any owners of property within the political subdivision or registered voters residing within the political subdivision who want to initiate a petition and remonstrance process against the proposed debt service or lease payments must file a petition that complies with subdivisions (4) and (5) not later than thirty (30) days after publication in accordance with IC 5-3-1.
 - (F) With respect to bonds issued or a lease entered into to open:



- (i) a new school facility; or
- (ii) an existing facility that has not been used for at least three (3) years and that is being reopened to provide additional classroom space;

the estimated costs the school corporation expects to incur annually to operate the facility.

(G) A statement of whether the school corporation expects to appeal for a new facility adjustment (as defined in IC 20-45-1-16 (repealed) before January 1, 2009) for an increased maximum permissible tuition support levy to pay the estimated costs described in clause (F).

(H) The political subdivision's current debt service levy and rate and the estimated increase to the political subdivision's debt service levy and rate that will result if the political subdivision issues the bonds or enters into the lease.

(4) After notice is given, a petition requesting the application of a petition and remonstrance process may be filed by the lesser of:

(A) one hundred (100) persons who are either owners of property within the political subdivision or registered voters residing within the political subdivision; or

(B) five percent (5%) of the registered voters residing within the political subdivision.

(5) The state board of accounts shall design and, upon request by the county voter registration office, deliver to the county voter registration office or the county voter registration office's designated printer the petition forms to be used solely in the petition process described in this section. The county voter registration office shall issue to an owner or owners of property within the political subdivision or a registered voter residing within the political subdivision the number of petition forms requested by the owner or owners or the registered voter. Each form must be accompanied by instructions detailing the requirements that:

(A) the carrier and signers must be owners of property or registered voters;

(B) the carrier must be a signatory on at least one (1) petition;

(C) after the signatures have been collected, the carrier must swear or affirm before a notary public that the carrier witnessed each signature; and

(D) govern the closing date for the petition period.

Persons requesting forms may be required to identify themselves as owners of property or registered voters and may be allowed to



pick up additional copies to distribute to other owners of property or registered voters. Each person signing a petition must indicate whether the person is signing the petition as a registered voter within the political subdivision or is signing the petition as the owner of property within the political subdivision. A person who signs a petition as a registered voter must indicate the address at which the person is registered to vote. A person who signs a petition as an owner of property must indicate the address of the property owned by the person in the political subdivision.

(6) Each petition must be verified under oath by at least one (1) qualified petitioner in a manner prescribed by the state board of accounts before the petition is filed with the county voter registration office under subdivision (7).

(7) Each petition must be filed with the county voter registration office not more than thirty (30) days after publication under subdivision (2) of the notice of the preliminary determination.

(8) The county voter registration office shall determine whether each person who signed the petition is a registered voter. The county voter registration office shall, not more than fifteen (15) business days after receiving a petition, forward a copy of the petition to the county auditor. Not more than ten (10) business days after receiving the copy of the petition, the county auditor shall provide to the county voter registration office a statement verifying:

(A) whether a person who signed the petition as a registered voter but is not a registered voter, as determined by the county voter registration office, is the owner of property in the political subdivision; and

(B) whether a person who signed the petition as an owner of property within the political subdivision does in fact own property within the political subdivision.

(9) The county voter registration office shall, not more than ten (10) business days after receiving the statement from the county auditor under subdivision (8), make the final determination of the number of petitioners that are registered voters in the political subdivision and, based on the statement provided by the county auditor, the number of petitioners that own property within the political subdivision. Whenever the name of an individual who signs a petition form as a registered voter contains a minor variation from the name of the registered voter as set forth in the records of the county voter registration office, the signature is presumed to be valid, and there is a presumption that the



individual is entitled to sign the petition under this section. Except as otherwise provided in this chapter, in determining whether an individual is a registered voter, the county voter registration office shall apply the requirements and procedures used under IC 3 to determine whether a person is a registered voter for purposes of voting in an election governed by IC 3. However, an individual is not required to comply with the provisions concerning providing proof of identification to be considered a registered voter for purposes of this chapter. A person is entitled to sign a petition only one (1) time in a particular petition and remonstrance process under this chapter, regardless of whether the person owns more than one (1) parcel of real property, mobile home assessed as personal property, or manufactured home assessed as personal property, or a combination of those types of property within the subdivision and regardless of whether the person is both a registered voter in the political subdivision and the owner of property within the political subdivision. Notwithstanding any other provision of this section, if a petition is presented to the county voter registration office within forty-five (45) days before an election, the county voter registration office may defer acting on the petition, and the time requirements under this section for action by the county voter registration office do not begin to run until five (5) days after the date of the election.

(10) The county voter registration office must file a certificate and each petition with:

(A) the township trustee, if the political subdivision is a township, who shall present the petition or petitions to the township board; or

(B) the body that has the authority to authorize the issuance of the bonds or the execution of a lease, if the political subdivision is not a township;

within thirty-five (35) business days of the filing of the petition requesting a petition and remonstrance process. The certificate must state the number of petitioners that are owners of property within the political subdivision and the number of petitioners who are registered voters residing within the political subdivision.

If a sufficient petition requesting a petition and remonstrance process is not filed by owners of property or registered voters as set forth in this section, the political subdivision may issue bonds or enter into a lease by following the provisions of law relating to the bonds to be issued or lease to be entered into.

(c) This subsection applies only to a political subdivision that, after



April 30, 2011, adopts an ordinance or a resolution making a preliminary determination to issue bonds or enter into a lease subject to this section and section 3.2 of this chapter. A political subdivision may not artificially divide a capital project into multiple capital projects in order to avoid the requirements of this section and section 3.2 of this chapter. **A person that owns property within a political subdivision or a person that is a registered voter residing within a political subdivision may file a petition with the department of local government finance objecting that the political subdivision has artificially divided a capital project into multiple capital projects in order to avoid the requirements of this section and section 3.2 of this chapter. The petition must be filed not more than ten (10) days after the political subdivision makes the final determination to issue the bonds or enter into the lease for the project. If the department of local government finance receives a petition under this subsection, the department shall not later than thirty (30) days after receiving the petition make a final determination on the issue of whether the capital projects were artificially divided.**

SECTION 3. IC 6-1.1-20-3.6, AS AMENDED BY P.L.219-2013, SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3.6. (a) Except as provided in sections 3.7 and 3.8 of this chapter, this section applies only to a controlled project described in section 3.5(a) of this chapter.

(b) If a sufficient petition requesting the application of the local public question process has been filed as set forth in section 3.5 of this chapter, a political subdivision may not impose property taxes to pay debt service on bonds or lease rentals on a lease for a controlled project unless the political subdivision's proposed debt service or lease rental is approved in an election on a local public question held under this section.

(c) Except as provided in subsection (k), the following question shall be submitted to the eligible voters at the election conducted under this section:

"Shall _____ (insert the name of the political subdivision) issue bonds or enter into a lease to finance _____ (insert a brief description of the controlled project), which is estimated to cost not more than _____ (insert the total cost of the project) and is estimated to increase the property tax rate for debt service by _____ (insert increase in tax rate as determined by the department of local government finance)?"

The public question must appear on the ballot in the form approved by



the county election board. If the political subdivision proposing to issue bonds or enter into a lease is located in more than one (1) county, the county election board of each county shall jointly approve the form of the public question that will appear on the ballot in each county. The form approved by the county election board may differ from the language certified to the county election board by the county auditor. If the county election board approves the language of a public question under this subsection, the county election board shall submit the language to the department of local government finance for review.

(d) The department of local government finance shall review the language of the public question to evaluate whether the description of the controlled project is accurate and is not biased against either a vote in favor of the controlled project or a vote against the controlled project. The department of local government finance may either approve the ballot language as submitted or recommend that the ballot language be modified as necessary to ensure that the description of the controlled project is accurate and is not biased. The department of local government finance shall certify its approval or recommendations to the county auditor and the county election board not more than ten (10) days after the language of the public question is submitted to the department for review. If the department of local government finance recommends a modification to the ballot language, the county election board shall, after reviewing the recommendations of the department of local government finance, submit modified ballot language to the department for the department's approval or recommendation of any additional modifications. The public question may not be certified by the county auditor under subsection (e) unless the department of local government finance has first certified the department's final approval of the ballot language for the public question.

(e) The county auditor shall certify the finally approved public question under IC 3-10-9-3 to the county election board of each county in which the political subdivision is located. The certification must occur not later than noon:

- (1) seventy-four (74) days before a primary election if the public question is to be placed on the primary or municipal primary election ballot; or
- (2) August 1 if the public question is to be placed on the general or municipal election ballot.

Subject to the certification requirements and deadlines under this subsection and except as provided in subsection (k), the public question shall be placed on the ballot at the next primary election, general election, or municipal election in which all voters of the



political subdivision are entitled to vote. However, if a primary election, general election, or municipal election will not be held during the first year in which the public question is eligible to be placed on the ballot under this section and if the political subdivision requests the public question to be placed on the ballot at a special election, the public question shall be placed on the ballot at a special election to be held on the first Tuesday after the first Monday in May or November of the year. The certification must occur not later than noon seventy-four (74) days before a special election to be held in May (if the special election is to be held in May) or noon on August 1 (if the special election is to be held in November). The fiscal body of the political subdivision that requests the special election shall pay the costs of holding the special election. The county election board shall give notice under IC 5-3-1 of a special election conducted under this subsection. A special election conducted under this subsection is under the direction of the county election board. The county election board shall take all steps necessary to carry out the special election.

(f) The circuit court clerk shall certify the results of the public question to the following:

- (1) The county auditor of each county in which the political subdivision is located.
- (2) The department of local government finance.

(g) Subject to the requirements of IC 6-1.1-18.5-8, the political subdivision may issue the proposed bonds or enter into the proposed lease rental if a majority of the eligible voters voting on the public question vote in favor of the public question.

(h) If a majority of the eligible voters voting on the public question vote in opposition to the public question, both of the following apply:

- (1) The political subdivision may not issue the proposed bonds or enter into the proposed lease rental.
- (2) Another public question under this section on the same or a substantially similar project may not be submitted to the voters earlier than one (1) year after the date of the election.

(i) IC 3, to the extent not inconsistent with this section, applies to an election held under this section.

(j) A political subdivision may not artificially divide a capital project into multiple capital projects in order to avoid the requirements of this section and section 3.5 of this chapter. **A person that owns property within a political subdivision or a person that is a registered voter residing within a political subdivision may file a petition with the department of local government finance objecting that the political subdivision has artificially divided a capital**



project into multiple capital projects in order to avoid the requirements of this section and section 3.5 of this chapter. The petition must be filed not more than ten (10) days after the political subdivision makes the final determination to issue the bonds or enter into the lease for the project. If the department of local government finance receives a petition under this subsection, the department shall not later than thirty (30) days after receiving the petition make a final determination on the issue of whether the capital projects were artificially divided.

(k) This subsection applies to a political subdivision for which a petition requesting a public question has been submitted under section 3.5 of this chapter. The legislative body (as defined in IC 36-1-2-9) of the political subdivision may adopt a resolution to withdraw a controlled project from consideration in a public question. If the legislative body provides a certified copy of the resolution to the county auditor and the county election board not later than sixty-three (63) days before the election at which the public question would be on the ballot, the public question on the controlled project shall not be placed on the ballot and the public question on the controlled project shall not be held, regardless of whether the county auditor has certified the public question to the county election board. If the withdrawal of a public question under this subsection requires the county election board to reprint ballots, the political subdivision withdrawing the public question shall pay the costs of reprinting the ballots. If a political subdivision withdraws a public question under this subsection that would have been held at a special election and the county election board has printed the ballots before the legislative body of the political subdivision provides a certified copy of the withdrawal resolution to the county auditor and the county election board, the political subdivision withdrawing the public question shall pay the costs incurred by the county in printing the ballots. If a public question on a controlled project is withdrawn under this subsection, a public question under this section on the same controlled project or a substantially similar controlled project may not be submitted to the voters earlier than one (1) year after the date the resolution withdrawing the public question is adopted.

(l) If a public question regarding a controlled project is placed on the ballot to be voted on at a public question under this section, the political subdivision shall submit to the department of local government finance, at least thirty (30) days before the election, the following information regarding the proposed controlled project for posting on the department's Internet web site:



- (1) The cost per square foot of any buildings being constructed as part of the controlled project.
- (2) The effect that approval of the controlled project would have on the political subdivision's property tax rate.
- (3) The maximum term of the bonds or lease.
- (4) The maximum principal amount of the bonds or the maximum lease rental for the lease.
- (5) The estimated interest rates that will be paid and the total interest costs associated with the bonds or lease.
- (6) The purpose of the bonds or lease.
- (7) In the case of a controlled project proposed by a school corporation:
 - (A) the current and proposed square footage of school building space per student;
 - (B) enrollment patterns within the school corporation; and
 - (C) the age and condition of the current school facilities."

and when so amended that said bill do pass.

(Reference is to SB 251 as introduced.)

HERSHMAN, Chairperson

Committee Vote: Yeas 13, Nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Senate Bill 251, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 7, line 7, delete "final" and insert "**preliminary**".

Page 9, line 40, delete "final" and insert "**preliminary**".

and when so amended that said bill do pass.

(Reference is to SB 251 as printed January 28, 2015.)

BROWN T

Committee Vote: yeas 14, nays 7.

